

*Public Service Commission  
Of West Virginia*

201 Brooks Street, P. O. Box 812  
Charleston, WV 25323



Phone: (304) 340-0300  
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November 27, 2013

Randy Adkins  
414 Harless Fork Road  
Branchland, WV 25506

Wayne Adkins  
475 Harless Fork Road  
Branchland, WV 25506

Brenda Adkins  
414 Harless Fork Road  
Branchland, WV 25506

Roger and Jolene Pack  
505 Harless Fork  
Branchland, WV 25506

Allen Adkins  
465 Harless Fork  
Branchland, WV 25506

Hartsel Scott and Rebecca Parsons  
545 Harless Fork Road  
Branchland, WV 25506

RE: Case No. 13-1315-PWD-W-C  
Randy Adkins  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District and West  
Virginia-American Water Company

Case No. 13-1316-PWD-W-C  
Brenda Adkins  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District and West  
Virginia-American Water Company

Case No. 13-1318-PWD-W-C  
Allen Adkins  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District, and  
West Virginia-American Water Company

Case No. 13-1319-PWD-W-C  
Wayne Adkins  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District and West  
Virginia-American Water Company

Case No. 13-1320-PWD-W-C  
Roger and Jolene Pack  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District, and  
West Virginia-American Water Company

Case No. 13-1322-PWD-W-C  
Hartsel Scott and Rebecca Parsons  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District and West  
Virginia-American Water Company

Case No. 13-1323-PWD-W-C  
Hartsel and Janet Parsons  
v.  
Branchland-Midkiff Public Service District,  
Lavalette Public Service District, and  
West Virginia-American Water Company

Ladies and Gentlemen:

Pursuant to Rule 4.3.c of the Commission's Rules of Practice and Procedure, we are enclosing a copy of the Staff memorandum in this matter. Any responses must be submitted to the Executive Secretary's Office in writing within 10 days of this date, unless directed otherwise. All other parties of record have provided an email address.

Your failure to respond in writing to the utility's answer, Staff's recommendations, or other documents may result in a decision in your case based on your original filing and the other documents in the case file, without further hearing or notice.

If you have not done so, you are encouraged to file the Electronic Mail Agreement, previously mailed to you, which allows the Commission to serve all orders issued in this matter via electronic docket notification.

When you provide an email address, you will automatically receive docket notifications as documents are filed in this proceeding. The email notifications allow recipients to view a document within an hour from the time the filing is processed. If you have not provided your email address, please send an email to [caseinfo@psc.state.wv.us](mailto:caseinfo@psc.state.wv.us) and state the case number in the email subject field.

Please note - the Public Service Commission does not accept electronic filings.

Sincerely,



Ingrid Ferrell, Director  
Executive Secretary Division

IF/s  
Enc.: Memo



**FINAL JOINT STAFF MEMORANDUM**

**TO: INGRID FERRELL**  
Executive Secretary

**DATE: November 27, 2013**

**FROM: DAVID A. SADE, Staff Attorney**  
Legal Division

*AS*

**SUBJECT: Case No. 13-1315-PWD-W-C**  
Randy Adkins

12:01 PM NOV 27 2013 PSC EXEC SEC DIV

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

Case No. 13-1316-PWD-W-C  
Brenda Adkins

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

Case No. 13-1318-PWD-W-C  
Allen Adkins

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

Case No. 13-1319-PWD-W-C  
Wayne Adkins

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

Case No. 13-1320-PWD-W-C  
Roger and Jolene Pack

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

Case No. 13-1322-PWD-W-C  
Hartsel Scott and Rebecca Parsons

v.

Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

**Case No. 13-1323-PWD-W-C**

**Hartsel and Janet Parsons**

**v.**

**Branchland-Midkiff PSD, Lavallette PSD and**

**West Virginia American Water**

**(Cases consolidated under Case No. 13-1315-PWD-W-C)**

“Water, water, everywhere . . .”<sup>1</sup> While the relief sought by the Complainants obviously is not waiting right outside their homes for the turn of a valve, water service is within physical reach of the facilities of two public and one private water providers, none of which currently are willing and/or able to bring water to these individuals who currently have no reliable source.

In the attached *Final Staff Internal Memorandum*, Jim Weimer of the Commission’s Engineering Division outlined the procedural history of the now-consolidated complaint cases, which seek identical relief. Mr. Weimer also summarized the results of his contacts with representatives of Branchland-Midkiff and Lavalette PSDs (“Districts” “PSDs”) and West Virginia American Water Co. (“WVAW”), as well as with the Complainants. In addition, he provided relevant information regarding prior Commission proceedings and their outcomes to date that could have a bearing on the issues raised in the instant matter. Attached to his Memorandum are exhibits plotting the existing facilities and the distances and required facilities involved in possible extension scenarios.

Mr. Weimer noted that it was clear in their meeting that “. . . the Complainants recognized that most could not afford the per customer [estimated] cost contribution of over \$20,000” for extending service under the Main Extension Rules contained in the Commission’s *Rules for the Government of Water Utilities*.

Notwithstanding the financial hurdle presented by use of the extension approach, Engineering Staff recommended that the Complainants execute a formal Main Line Extension request with the Branchland PSD which would generate a formal cost estimate reflecting the required utility contribution. Mr. Weimer also suggested that Branchland investigate a remote water station at the end of its line on Harless Fork to serve the Complainants near their homes at low cost.

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<sup>1</sup> . . . and all the boards did shrink; water, water, everywhere, and not a drop to drink.” Rime of the Ancient Mariner, Samuel Coleridge, 1797-1798.



The Legal Division concurs with Engineering's recommendations and urges their incorporation into a Commission Order.

DAS/cs

Attachment

CWS *by [signature]*

h:\tsade\cases 2013\2013-formal complaints\atkins, et al v. branchland psd, et al 13-1316-pwd-w\_c\atkins, et al. initial final joint staff memo.doc

## PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

FINAL STAFF INTERNAL MEMORANDUM

DATE: November 26, 2013

TO: Tony Sade, Staff Attorney  
Legal Division

FROM: Jim Weimer, P.E. Engineer II  
Engineering Division

SUBJECT: RANDY ADKINS                      BRENDA ADKINS  
Case No. 13-1315-PWD-W-C              CASE NO. 13-13 16-PWD-W-C

ALLEN ADKINS                      WAYNE ADKINS  
CASE NO. 13-1318-PWD-W-C              CASE NO. 13- 1319-PWD- W-C

ROGER AND JOLENE PACK              HARTSEL AND JANET PARSONS  
CASE NO. 13-1320-PWD-W-C              CASE NO. 13-1323-PWD-W-C

HARTSEL SCOTT AND REBECCA PARSONS  
CASE NO. 13-1322-PWD-W-C  
v.  
Branchland-Midkiff PSD, Lavallette PSD and  
West Virginia American Water

On August 30, 2013, the above Complainants (Complainants) filed Formal Complaints against the Branchland-Midkiff and Lavalette Public Service Districts (Districts) and the West Virginia American Water Company (WVAM) alleging that both the Districts and WVAM all owned water mains close to their residences but refused to provide water service to them. As relief the Complainants requested that one of those water utilities be required to provide service to them. The Complaints noted that the Branchland Midkiff Public Service District main was within three quarter mile of all of the Complainant's residences.

On September 10, 2013 the Branchland Midkiff Public Service District responded to the Complaint via Counsel. In the response, the PSD noted that it had recently completed a Certificate water project in the area filed as Case No.11-0244-PWD-CN. The project utilized contingency funds to extend service beyond the original proposed end point along Harless Fork Road. However, there were insufficient funds to extend service any further based on cost estimates from its Engineer.



On September 11, 2013 the WVAM responded via Counsel. In the response the WVAM requesting that it be dismissed from the Complaint case.. The WVAM stated that it believed that the Complainant was within the Branchland Midkiff Public Service District service area. In addition there was no allegation that the WVAM had violated the WVPSC Rules for the Government of Water Utilities (Water Rules) , Rule 5.5, which deals with extensions of service. Consequently, WVAM believed the claims made by the Complainant were meritless and the WVAM should be dismissed as a Defendant in all of the Formal Complaint case.

On September 12, 2013, the Lavalette Public Service District (Lavalette) filed a response via Counsel. In the response Lavalette denied that it had violated any law and noted that Branchland Midkiff was outside of its service territory and requested that that Lavalette be dismissed from the Complaint case.

Staff has spoken to both Public Service Districts and WVAM regarding the location of their water mains. The mains of WVAM are a much greater distance from the Complainant than both Districts. In addition, WVAM would have difficulty entering an area with two other existing water utilities very close to the Complainants.

Staff also met with all of the Complainants in early November to discuss the possible outcomes. The Complainants voiced their complete frustration that despite being so close to three water utilities they have not received water service. However, Staff did discuss all of the WVPSC options for extending service through the Main Extension Rules. Based on an early informal estimate of the cost to serve all Complainants provided by Branchland, the Complainants recognized that most could not afford the per customer contribution of over \$20,000.

While the Lavalette service area is not near the Complainant, Lavalette did extend a new main into the Branchland Midkiff service area at the request of the Branchland Midkiff Board. The cost of the two mile Lavalette extension into Branchland was in excess of \$600,000. The Branchland Board wanted an additional water supply and a source which would allow service at a higher elevation than its source could provide. Branchland's water supplier is the Town of West Hamlin and according to the Branchland Board, there are many times when Branchland cannot get the water it requires due to limitations in the West Hamlin supply. Some funds still remain in the still open Lavalette Certificate project which could be available to serve the Complainant if the two Boards could reach an accommodation on customer ownership and the economic implications of a Lavalette extension further into the Branchland Midkiff service area. The funding agency providing the loans to Lavalette would also have to agree. The WVAM line is over two (2) road miles from the last Complainant and over one (1) mile from the closest Complainant. according to the Huntington District construction group. The attached Exhibit shows the current line locations. Staff has discussed the possibilities with both Boards.

During the case investigation and discussions with the PSD Boards, Staff noted that Lavalette and Branchland had not yet prepared boundary revisions to allow Lavalette to install



its main and serve customers in the Branchland service area. A document is now being reviewed by the parties to accomplish that requirement. Staff also noted that there was no water purchase agreement to allow Lavalette to offset the nearly \$600,000 cost of providing the secondary source to Branchland. Until such a reasonable agreement can be executed the Lavalette customers will be subsidizing the Branchland customers with the loan repayment costs for the Lavalette extension into Branchland. Staff had anticipated that a water purchase agreement, when executed, might supply sufficient incentive to Lavalette by allowing Lavalette to deliver large flows to Branchland in addition to those for the Complainants. However, the Lavalette Board was informed by its Manager that a seriously impaired main source supply line would have to be replaced and that line replacement cost eliminated any possibility to extend further into Branchland to serve the Complainants.

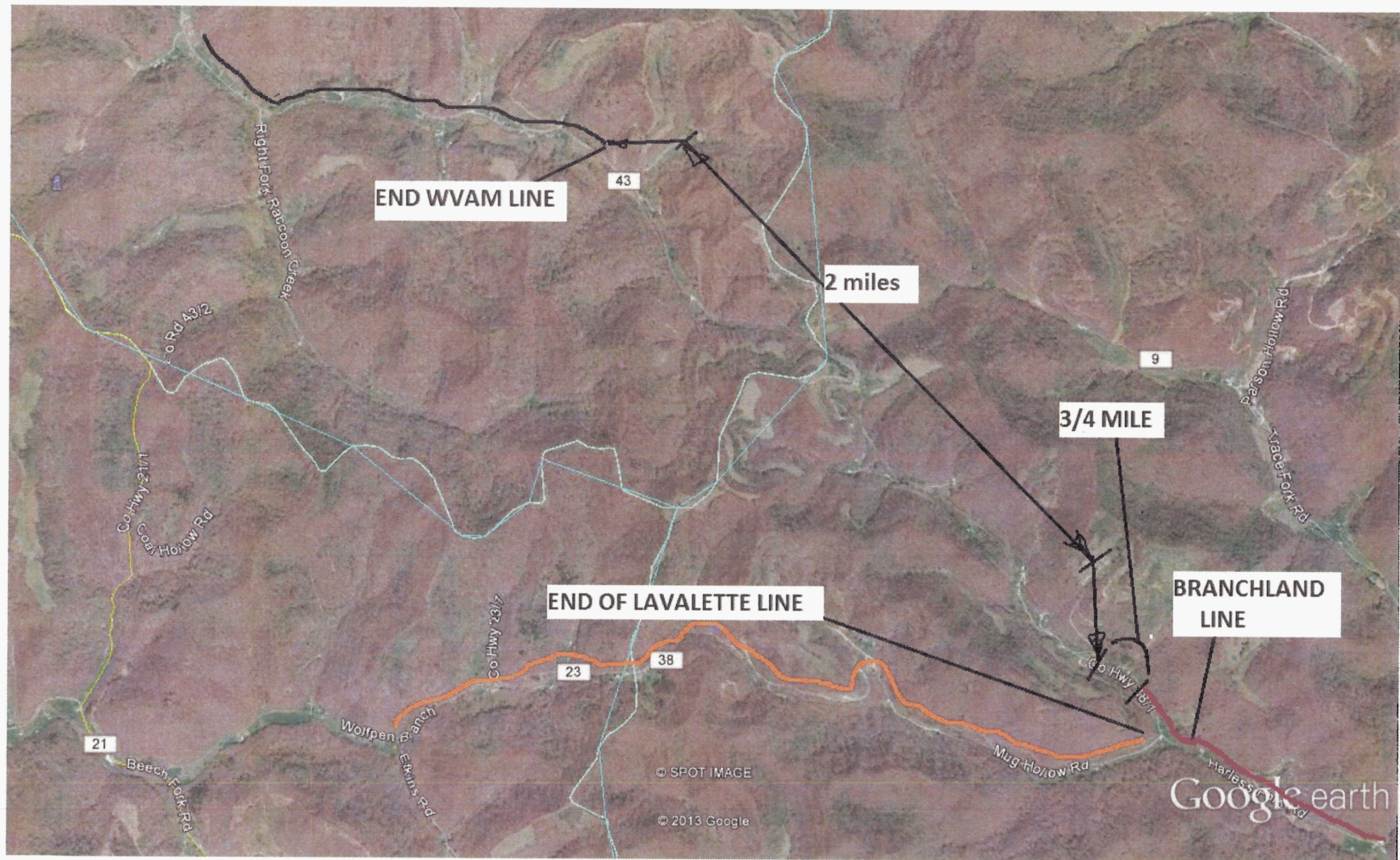
Consequently, Staff recommends that the Complainants execute a formal Main Line Extension request with the Branchland Board to obtain a formal estimate with the required utility contribution noted. In addition, Staff believes that Branchland should investigate installing a remote purchase water station at the end of the current Branchland line on Harless Fork so that the Complainants can obtain water at low cost close to their residences via hauling tanks.

JCW:

CEM

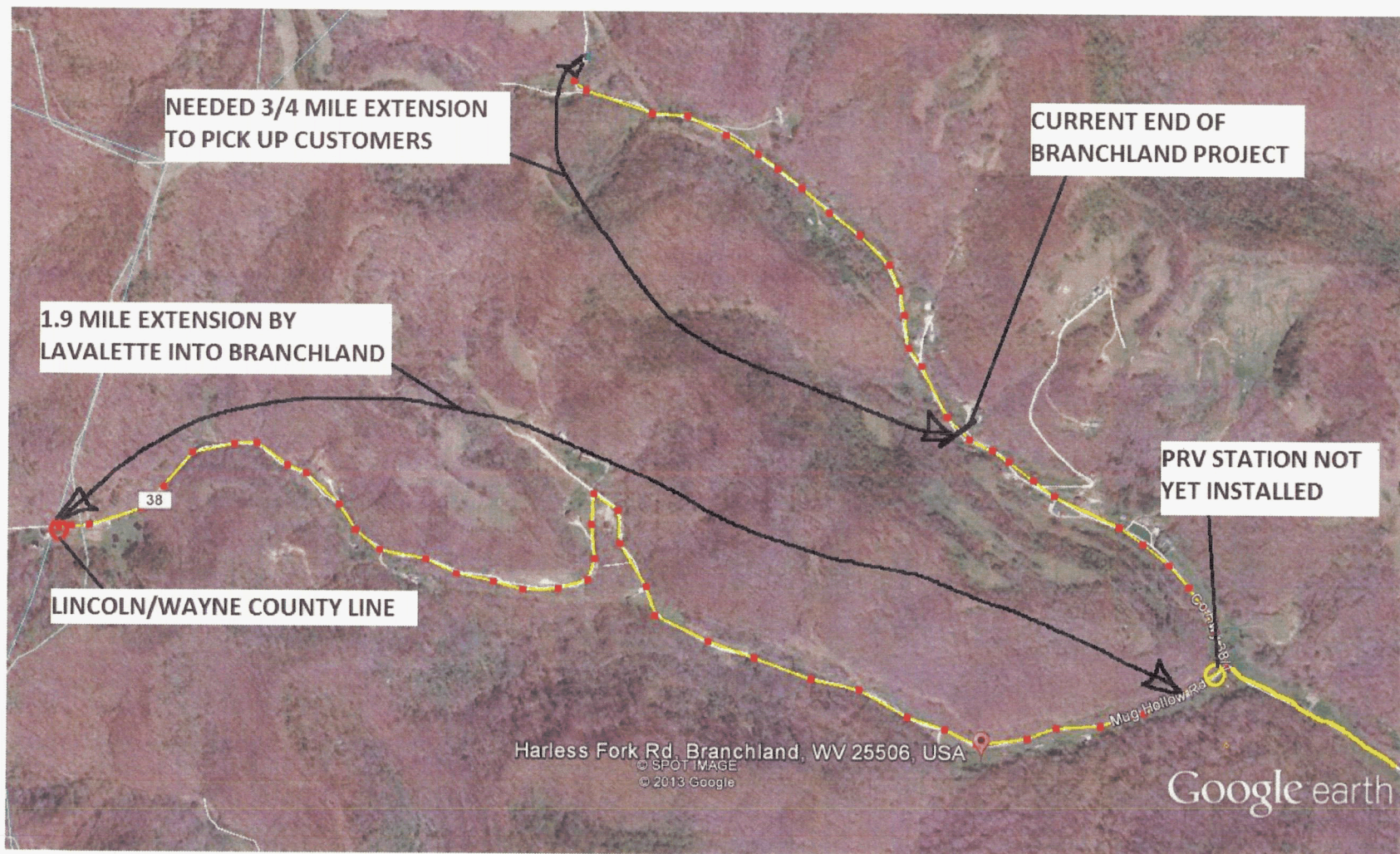
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**EXHIBIT I**





## EXHIBIT II



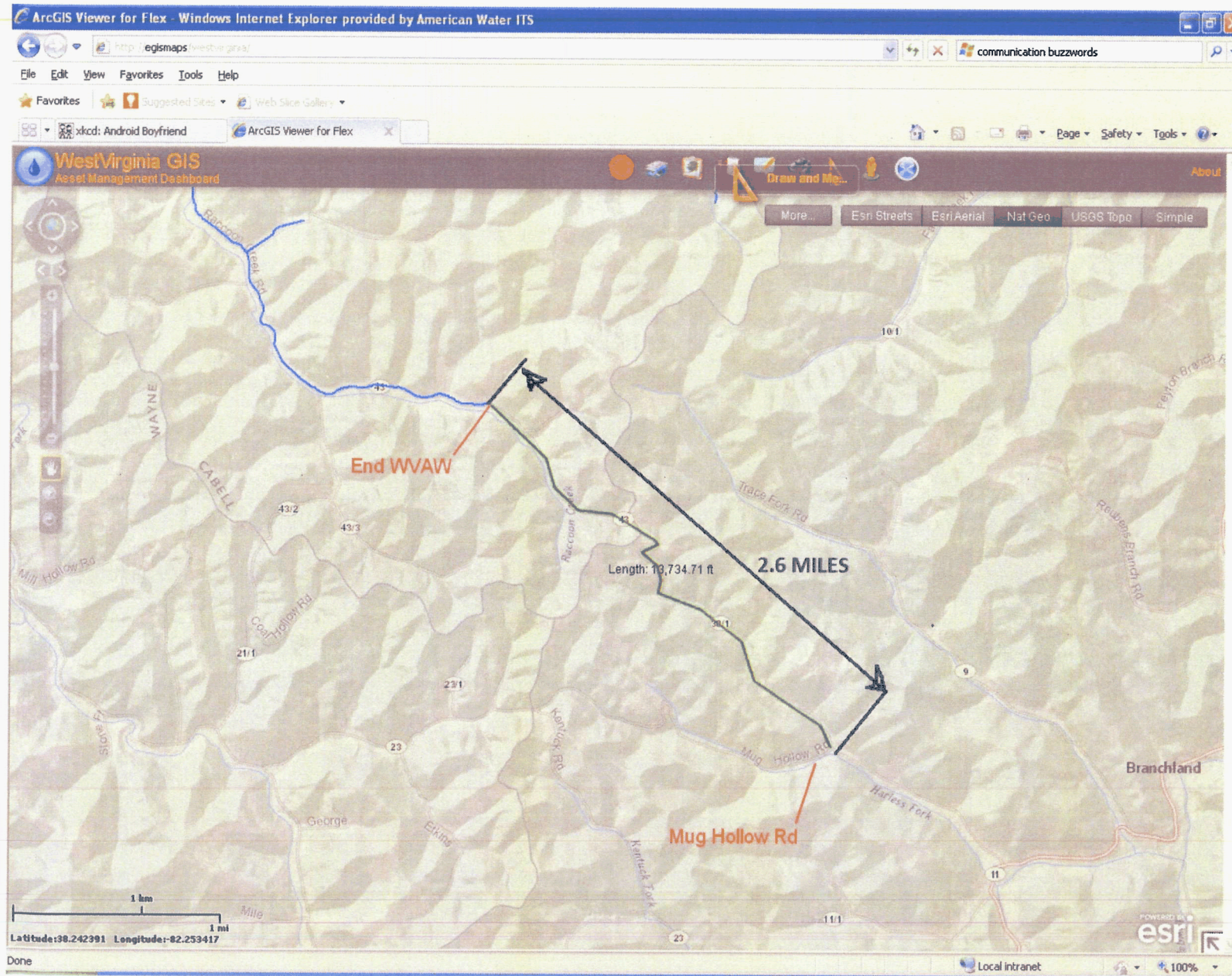


EXHIBIT III